S.B. CIVIL MISC. ARBITRATION APPLICATION NO.13/06

M/s Madan Mohan Jain & Sons Vs. State of Raj. & Anr.

Date : 06.10.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA

Mr. K.K. Shah for the applicant.

As per the office report dated 20.4.2006, the respondents were served long back. No one has appeared for the respondents nor any reply to the application under Section 11(6) of the Arbiration & Conciliation Act, 1996 has been filed. The applicant firm was awarded with a contract through respondent No.2 on 11.8.2002 and according to the applicant, the work commenced on 16.8.2000 and completed on 15.2.2001. The dispute having arisen about the payment of final bill and the applicant required the respondents to refer the dispute to Arbitration / Standing Committee in terms of the arbitration agreement contained in the contract, however, the respondents have not responded to the notice dated 30th Nov., 2005. The dispute having been

not referred to the Arbitral Tribunal, this application has been moved.

As noticed above, no reply has been submitted and none has appeared. However, from the material placed along with the application, it appears that clause 23 of the Contract contains the arbitration clause and the dispute relates to the payment of final bill, the applicant has deposited Rs.20,000/-, 2% of the claim raised by him by way of fees for referring the matter to the Arbitration. Thus, the respondents having failed to refer the dispute to the Arbitral Tribunal in terms of agreement, this application deserves to be allowed.

Shri N.L. Chhangani, a retired District Judge, R/o Jodhpur is appointed as sole Arbitrator. The dispute shall be referred to him. The cost of the arbitration and fees of Arbitrator shall be as determined by the Arbitrator. The amount deposited by the applicant along with his application for referring the matter to the Arbitration shall be adjusted towards the cost of the

Arbitration.

[RAJESH BALIA], J.

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